

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KYLE AVERY WITEK,

Plaintiff

Case No. 2:17-cv-13647

District Judge Arthur J. Tarnow

Magistrate Judge Anthony P. Patti

v.

HEIDI E. WASHINGTON,
ERIC BALCARCEL,
BARBARA A. ANDERSON,
M. ZAMORA and
KAREN C. DELBEKE,

Defendants.

**ORDER DIRECTING THE MDOC TO RESPOND AND DIRECTING THE
CLERK OF THE COURT TO SERVE A COPY OF THIS ORDER UPON
MICHIGAN'S DEPARTMENT OF ATTORNEY GENERAL**

Plaintiff Kyle Avery Witek is currently incarcerated at the MDOC's St. Louis Correctional Facility (SLF). On November 6, 2017, while incarcerated at SLF, Plaintiff filed the instant lawsuit *in pro per* against five defendants. (DE 1 at 2-5.) Plaintiff is proceeding *in forma pauperis*. (DEs 2-3.)

By way of the Court's December 15, 2017 opinion and order, Judge Tarnow dismissed with prejudice Plaintiff's claims against Defendants Heidi E.

Washington (MDOC Director), Erick Balcarcel (Acting Warden), and M. Zamora (Healthcare Unit Manager), but directed service of the complaint upon the remaining Defendants. (DE 5.) On December 19, 2017, the U.S. Marshal Service

acknowledged receipt of documents for service of process upon Defendant Barbara A. Anderson (Registered Dietician) at MDOC Headquarters and Defendant Karen C. Delbeke (Nurse Practitioner) at SLF. (DE 6.)

Since then, attorneys Ronald W. Chapman and Carly A. Van Thomme have appeared on behalf of Defendant Delbeke (DEs 9, 10) and Defendant Anderson has executed a waiver of the service of summons (DE 12). However, there has been no appearance of counsel on Defendant Anderson's behalf.

Upon consideration, no later than Tuesday, April 24, 2018, the MDOC **SHALL** inform this Court, in writing, whether Defendant Anderson will be represented by Michigan's Department of Attorney General. This requirement may be satisfied either by filing a notice of appearance on Defendant Anderson's behalf or by filing a letter explaining otherwise. In addition, considering that there is no currently active MDOC defendant, the Clerk of the Court is **DIRECTED** to serve a copy of this order upon Assistant Attorney General Denise Barton, Chief of the Civil Litigation, Employment & Elections Division, as this department is responsible for representing the MDOC. *See*

<http://www.michigan.gov/ag/0,4534,7-359-82100---,00.html> (last visited Apr. 10, 2018).¹

¹ According to the State Bar of Michigan's Member Directory, Ms. Barton's address is 525 W Ottawa St Fl 5, Lansing, MI 48909-8236. *See* <https://www.zeekbeek.com/SBM/Search->

IT IS SO ORDERED.

Dated: April 12, 2018

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on April 12, 2018, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti

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